

1 Ali S. Razai, Bar No. 246,922  
ali.razai@morganlewis.com  
2 Brandon G. Smith, Bar No. 307,676  
brandon.smith@morganlewis.com  
3 **MORGAN, LEWIS & BOCKIUS LLP**  
600 Anton Boulevard, Suite 1800  
4 Costa Mesa, CA 92626-7653  
Tel: +1.714.830.0600  
5 Fax: +1.714.830.0700

6 Brian O'Donnell (*pro hac vice*)  
brian.odonnell@morganlewis.com  
7 **MORGAN, LEWIS & BOCKIUS LLP**  
110 North Wacker Drive  
8 Chicago, IL 60606-1511  
Tel: +1.312.324.1565  
9 Fax: +1.312.324.1001

10 John Hendershott (*pro hac vice*)  
jack.hendershott@morganlewis.com  
11 **MORGAN, LEWIS & BOCKIUS LLP**  
101 Park Avenue  
12 New York, NY 10178-0060  
Tel: +1.212.309.6000  
13 Fax: +1.212.309.6001

14 Attorneys for Plaintiffs  
LULULEMON ATHLETICA CANADA INC.  
15 LULULEMON USA INC.

16 **UNITED STATES DISTRICT COURT**

17 **CENTRAL DISTRICT OF CALIFORNIA**

18 LULULEMON ATHLETICA  
19 CANADA INC. AND LULULEMON  
USA, INC.,

20 Plaintiffs/Counter-  
21 Defendants,

22 vs.

23 COSTCO WHOLESALE  
CORPORATION

24 Defendant,

25 JACQUES MORET, INC.

26 Intervenor-Defendant/  
27 Counter-Claimant.  
28

Case No. 2:25-cv-05864-FLA(AJR<sub>x</sub>)

**PLAINTIFFS' ANSWER TO  
INTERVENOR-DEFENDANT  
JACQUES MORET, INC.'S  
COUNTERCLAIMS**

1 Plaintiffs/Counter-Defendants lululemon athletica canada inc. and lululemon  
2 usa, inc. (collectively, “lululemon” or “Plaintiffs”), by and through its undersigned  
3 counsel, answer the Counterclaims of Intervenor-Defendant/Counter-Claimant  
4 Jacques Moret Inc. (“Moret” or “Intervenor-Defendant”) as follows:

5 **JURISDICTION AND VENUE**

6 1. lululemon denies the allegations in paragraph 1 of Moret’s  
7 Counterclaims, except that it admits only that Moret’s Counterclaims purport to  
8 allege counterclaims arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201  
9 and 2202, the trademark laws of the United States, 15 U.S.C. § 1051 *et seq.*, and the  
10 patent laws of the United States, 35 U.S.C. § 1 *et seq.* lululemon denies the merit and  
11 validity of Moret’s Counterclaims.

12 2. lululemon denies the allegations of paragraph 2 of Moret’s  
13 Counterclaims, and further denies the legal conclusions set forth therein, except that  
14 it admits for purposes of this matter only that this Court has subject matter jurisdiction  
15 over this action under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1338, 2201 and 2202,  
16 based on an actual controversy between Moret and lululemon.

17 3. lululemon denies the allegations of paragraph 3 of Moret’s  
18 Counterclaims, and further denies the legal conclusions set forth therein, except that  
19 it admits for purposes of this matter only that this Court as supplemental jurisdiction  
20 over Moret’s counterclaims that arise under state statutes and the common law  
21 pursuant to 28 U.S.C. § 1367(a).

22 4. lululemon admits its products are available throughout the United States  
23 online and through lululemon’s own retail stores, including multiple stores in this  
24 Judicial District, that lululemon regularly transacts, does business and solicits  
25 business in this District, that lululemon derives substantial revenue from interstate  
26 commerce, including deriving revenue from its business in this District. lululemon  
27 denies the legal conclusions set forth in the allegations of paragraph 4 of Moret’s  
28

1 Counterclaims, except that it admits for purposes of this action only the Court has  
2 personal jurisdiction over lululemon.

3 5. lululemon admits it is subject to personal jurisdiction based on the filing  
4 of this lawsuit. lululemon denies the legal conclusions set forth in the allegations of  
5 paragraph 5 of Moret's Counterclaims, except that it admits for purposes of this  
6 action only that venue is proper in this district pursuant to 28 U.S.C. § 1391(b)-(d)  
7 and 1400(b).

### 8 **THE PARTIES**

9 6. lululemon lacks information or knowledge sufficient to answer or form  
10 a belief as to the truth of the allegations of paragraph 6 of Moret's Counterclaims,  
11 and therefore denies them.

12 7. lululemon lacks information or knowledge sufficient to answer or form  
13 a belief as to the truth of the allegations of paragraph 7 of Moret's Counterclaims,  
14 and therefore denies them.

15 8. lululemon admits the allegations in paragraph 8 of Moret's  
16 Counterclaims.

### 17 **MORET'S FACTUAL BACKGROUND**

#### 18 **I. Facts Common to All Claims for Relief**

19 9. lululemon lacks information or knowledge sufficient to answer or form  
20 a belief as to the truth of the allegations of paragraph 9 of Moret's Counterclaims,  
21 and therefore denies them.

22 10. lululemon lacks information or knowledge sufficient to answer or form  
23 a belief as to the truth of the allegations of paragraph 10 of Moret's Counterclaims,  
24 and therefore denies them.

25 11. lululemon admits the allegations in paragraph 11 of Moret's  
26 Counterclaims.

12. lululemon admits the allegations in paragraph 12 of Moret's Counterclaims.

3 **II. The Asserted Patents**

13. lululemon admits that it asserts U.S. Patent No. D989,442 against the "Danksin Half-Zip Hoodie" and U.S. Patent No. D1,035,219 against the "Danskin Half-Zip Pullover" and that Danskin products are included in the definition of "Moret Accused Products" in Moret's Answer at page 3, first paragraph. lululemon lacks information or knowledge sufficient to answer or form a belief as to the truth of the remainder of the allegations of paragraph 13 of Moret's Counterclaims, and therefore denies then.

14. lululemon denies that Moret attached any exhibits to Moret's Counterclaims. lululemon admits the remainder of the allegations in paragraph 14 of Moret's Counterclaims.

15. lululemon denies that Moret attached any exhibits to Moret's Counterclaims. lululemon admits the remainder of the allegations in paragraph 15 of Moret's Counterclaims.

16. lululemon admits the allegations in paragraph 16 of Moret's Counterclaims.

17. Paragraph 17 contains legal conclusions to which no response is required. To the extent a response is required, lululemon denies the allegations in paragraph 17 of Moret's Counterclaims

22 **a. [Purported] Differences Between the Moret Accused Products and the Asserted Patents**

18. lululemon admits that paragraph 18 of Moret's Counterclaims purports to include a reproduction of Figs. 1 and 2 of U.S. Patent No. D989,442, and that Fig. 1 purports to depict a front view of the claimed designed, and Fig. 2 purports to depict a rear view of the claimed design. The remainder of paragraph 18 of Moret's

1 Counterclaims includes legal conclusions to which no response is required. To the  
2 extent that a response is required, lululemon denies the allegations in paragraph 18  
3 of Moret's Counterclaim.

4 19. lululemon lacks knowledge or information sufficient to determine the  
5 truth of the allegations regarding what product is shown in the images below  
6 paragraph 19 of Moret's Counterclaim. The remainder of paragraph 19 of Moret's  
7 Counterclaim includes legal conclusions which do not require a response. To the  
8 extent a response is required, lululemon denies the remaining allegations of  
9 paragraph 19 of Moret's Counterclaim.

10 20. lululemon admits that paragraph 20 of Moret's Counterclaims purports  
11 to include annotated reproductions of Figs. 1 and 2 of U.S. Patent No. D1,035,219  
12 and that Fig. 1 purports to depict a front view of the claimed design, and Fig. 2  
13 purports to depict a rear view of the claimed design. The remaining allegations in  
14 paragraph 20 of Moret's Counterclaim include legal conclusions to which no  
15 response is required. To the extent a response is required, lululemon denies the  
16 remaining allegations in paragraph 20 of Moret's Counterclaim.

17 21. lululemon lacks knowledge or information sufficient to determine the  
18 truth of the allegations regarding what product is shown in the images below  
19 paragraph 21 of Moret's Counterclaim. The remaining allegations of paragraph 21  
20 include legal conclusions to which no response is required. To the extent a response  
21 is required, lululemon denies the remaining allegations of paragraph 21 of Moret's  
22 Counterclaim.

23 22. Paragraph 22 of Moret's Counterclaim includes legal conclusions to  
24 which no response is required. To the extent a response is required, lululemon denies  
25 the allegations in paragraph 22 of Moret's Counterclaim.  
26  
27  
28

1           23. Paragraph 23 of Moret's Counterclaim includes legal conclusions to  
2 which no response is required. To the extent a response is required, lululemon denies  
3 the allegations in Paragraph 23 of Moret's Counterclaim.

4           **III. The Asserted Trade Dress and Trademark**

5           24. lululemon admits its asserts its registered and common law DEFINE  
6 trade dress against products sold under the name "Jockey Ladies Yoga Jacket", and  
7 the common law SCUBA trade dress and common law TIDEWATER TEAL  
8 trademark are asserted against products sold under the names "Danskin Half-Zip  
9 Hoodie" and "Danskin Half-Zip Pullover." lululemon lacks information or  
10 knowledge sufficient to answer or form a belief as to the truth of the remainder of the  
11 allegations of paragraph 24 of Moret's Counterclaims, and on that basis denies them.

12           25. lululemon denies that Moret attached any exhibits to Moret's  
13 Counterclaims. lululemon admits the remainder of the allegations in paragraph 25 of  
14 Moret's Counterclaims.

15           26. lululemon admits the allegations in paragraph 26 of Moret's  
16 Counterclaims.

17           27. Paragraph 27 of Moret's Counterclaim includes legal conclusions to  
18 which no response is required. To the extent a response is required, lululemon denies  
19 the allegations in Paragraph 27 of Moret's Counterclaims.

20           **a. Differences Between the Moret Accused Products and the Asserted**  
21           **Trade Dress**

22           **i. The Registered DEFINE Trade Dress**

23           28. lululemon admits that it asserts that the Jockey Ladies Yoga Jacket  
24 infringes the DEFINE trade dress in U.S. Trademark Reg. No. 7,526,264, that Moret  
25 purports to reproduce in paragraph 28 of Moret's Counterclaims the drawing on the  
26 face of the certificate of registration for U.S. Trademark Reg. No. 7,526,264, and that  
27 the face of the certificate states that "[t]he mark consists of one line appearing  
28

1 horizontally in a wave design that is applied to the back of a garment above two  
2 parallel vertical lines, with a horizontal line appearing between the two parallel  
3 vertical lines.” The remainder of paragraph 28 of Moret’s Counterclaims includes  
4 legal conclusions to which no response is required. To the extent that a response is  
5 required, lululemon denies the remaining allegations in Moret’s Counterclaims.

6 29. lululemon admits that paragraph 29 of Moret’s Counterclaims purports  
7 to include an annotated view of the back region of the Jockey Ladies Yoga Jacket.  
8 The remaining allegations of paragraph 29 include legal conclusions to which no  
9 response is required. To the extent a response is required, lululemon denies the  
10 remaining allegations of paragraph 29 of Moret’s Counterclaims.

11 30. lululemon admits that it asserts that the Jockey Ladies Yoga Jacket  
12 infringes the DEFINE trade dress in U.S. Trademark Reg. No. 7,526,265, that Moret  
13 purports to reproduce in paragraph 30 of Moret’s Counterclaims the drawing on the  
14 face of the certificate of registration for U.S. Trademark Reg. No. 7,526,265, and that  
15 the face of the certificate states that “[t]he mark consists of two lines appearing  
16 vertically in a wave design that is applied to the front of a garment and one line that  
17 appears horizontally across the upper portion of the vertical lines.” The remaining  
18 allegations in paragraph 30 of Moret’s Counterclaim constitute legal conclusions to  
19 which no response is required. To the extent a response is required, lululemon denies  
20 the allegations.

21 31. lululemon admits that paragraph 31 of Moret’s Counterclaims purports  
22 to include an annotated view of the front region of the Jockey Ladies Yoga Jacket.  
23 The remaining allegations of paragraph 31 include legal conclusions to which no  
24 response is required. To the extent a response is required, lululemon denies the  
25 remaining allegations of paragraph 31 of Moret’s Counterclaim.  
26  
27  
28



1           32. Paragraph 32 of Moret's Counterclaim includes legal conclusions to  
2 which no response is required. To the extent a response is required, lululemon denies  
3 the allegations.

4           33. Paragraph 33 of Moret's Counterclaim includes legal conclusions to  
5 which no response is required. To the extent a response is required, lululemon denies  
6 the allegations.

7                           **ii. The Common law DEFINE Trade Dress**

8           34. lululemon admits the allegations in paragraph 34 of Moret's  
9 Counterclaims.

10          35. Paragraph 35 of Moret's Counterclaim includes legal conclusions to  
11 which no response is required. To the extent a response is required, lululemon denies  
12 the allegations in paragraph 35 of Moret's Counterclaim.

13          36. lululemon admits that paragraph 36 of Moret's Counterclaims purports  
14 to include an annotated view of the back region of the Jockey Ladies Yoga Jacket.  
15 The remaining allegations of paragraph 36 include legal conclusions to which no  
16 response is required. To the extent a response is required, lululemon denies the  
17 remaining allegations of paragraph 36 of Moret's Counterclaim.

18          37. lululemon admits that paragraph 37 of Moret's Counterclaims purports  
19 to include an annotated view of the front region of the Jockey Ladies Yoga Jacket.  
20 The remaining allegations of paragraph 37 include legal conclusions to which no  
21 response is required. To the extent a response is required, lululemon denies the  
22 remaining allegations of paragraph 37 of Moret's Counterclaim.

23          38. Paragraph 38 of Moret's Counterclaim includes legal conclusion to  
24 which no response is required. To the extent a response is required, lululemon denies  
25 the allegations in paragraph 38 of Moret's Counterclaims.  
26  
27  
28



1           39. Paragraph 39 of Moret's Counterclaims includes legal conclusions to  
2 which no response is required. To the extent a response is required, lululemon denies  
3 the allegations in paragraph 39 of Moret's Counterclaim.

4                   **iii. The Common Law SCUBA Trade Dress**

5           40. lululemon admits the allegations in paragraph 40 of Moret's  
6 Counterclaims.

7           41. Paragraph 41 of Moret's Counterclaims includes legal conclusions to  
8 which no response is required. To the extent a response is required, lululemon denies  
9 the allegations in paragraph 41 of Moret's Counterclaims.

10          42. lululemon lacks knowledge or information sufficient to form a belief as  
11 to the identity of the product shown in the images below paragraph 42 of Moret's  
12 Counterclaim and on that basis denies those allegations. The remaining allegations  
13 of Paragraph 42 include legal conclusions to which no response is required. To the  
14 extent a response is required, lululemon denies the remaining allegations of  
15 paragraph 42.

16          43. Paragraph 43 of Moret's Counterclaims includes legal conclusions to  
17 which no response is required. To the extent a response is required, lululemon denies  
18 the allegations in paragraph 43 of Moret's Counterclaims.

19          44. Paragraph 44 of Moret's Counterclaims includes legal conclusions to  
20 which no response is required. To the extent a response is required, lululemon denies  
21 the allegations in paragraph 44 of Moret's Counterclaims.

22                   **b. The TIDEWATER TEAL Trademark**

23          45. lululemon admits the allegations in paragraph 45 of Moret's  
24 Counterclaims.

25          46. lululemon denies that Moret attached any exhibits to Moret's  
26 Counterclaims. The remaining allegations in paragraph 46 of Moret's Counterclaims  
27 include legal conclusions to which no response is required. To the extent a response  
28

1 is required, lululemon denies the allegations in paragraph 46 of Moret's  
2 Counterclaims.

3 47. Paragraph 47 of Moret's Counterclaims includes legal conclusions to  
4 which no response is required. To the extent a response is required, lululemon denies  
5 the allegations in paragraph 47 of Moret's Counterclaims.

6 48. Paragraph 48 of Moret's Counterclaims includes legal conclusions to  
7 which no response is required. To the extent a response is required, lululemon denies  
8 the allegations in paragraph 48 of Moret's Counterclaims.

9 49. Paragraph 49 of Moret's Counterclaims includes legal conclusions to  
10 which no response is required. To the extent a response is required, lululemon denies  
11 the allegations in paragraph 49 of Moret's Counterclaims.

12 **COUNTERCLAIM NO. 1**

13 **(Declaratory Judgment of Non-Infringement of Patents – U.S. Design Patent**  
14 **Nos. D989,442 and D1,035,219)**

15 50. lululemon realleges and incorporates by reference the responses set  
16 forth in its answers to paragraphs 1-49 above, as if fully set forth herein.

17 51. Paragraph 51 of Moret's Counterclaims includes legal conclusions to  
18 which no response is required. To the extent a response is required, lululemon denies  
19 the allegations in paragraph 51 of Moret's Counterclaims.

20 52. Paragraph 52 of Moret's Counterclaims includes legal conclusions to  
21 which no response is required. To the extent a response is required, lululemon denies  
22 the allegations in paragraph 52 of Moret's Counterclaims.

23 53. Paragraph 53 of Moret's Counterclaims includes legal conclusions to  
24 which no response is required. To the extent a response is required, lululemon denies  
25 the allegations in paragraph 53 of Moret's Counterclaims.

26 54. lululemon denies the allegations in paragraph 54 of Moret's First  
27 Counterclaim.  
28

1           55. Paragraph 55 of Moret's Counterclaims includes legal conclusions to  
2 which no response is required. To the extent a response is required, lululemon denies  
3 the allegations in paragraph 55 of Moret's Counterclaims.

4                                   **COUNTERCLAIM NO. 2**

5                   **(Declaratory Judgment of Non-Infringement of Trade Dress and**  
6                   **Trademark Under the Lanham Act)**

7           56. lululemon realleges and incorporates by reference the responses set  
8 forth in its answers to paragraphs 1-55 above, as if fully set forth herein.

9           57. Paragraph 57 of Moret's Counterclaims includes legal conclusions to  
10 which no response is required. To the extent a response is required, lululemon denies  
11 the allegations in paragraph 57 of Moret's Counterclaims.

12           58. lululemon denies the allegations in paragraph 58 of Moret's Second  
13 Counterclaim.

14           59. lululemon denies the allegations in paragraph 59 of Moret's Second  
15 Counterclaim.

16           60. Paragraph 60 of Moret's Counterclaims includes legal conclusions to  
17 which no response is required. To the extent a response is required, lululemon denies  
18 the allegations in paragraph 60 of Moret's Counterclaims.

19                                   **COUNTERCLAIM NO. 3**

20                   **(Declaratory Judgment of Non-Infringement of Trade Dress and**  
21                   **Trademark Under State Law)**

22           61. lululemon realleges and incorporates by reference the responses set  
23 forth in its answers to paragraphs 1-60 above, as if fully set forth herein.

24           62. Paragraph 62 of Moret's Counterclaims includes legal conclusions to  
25 which no response is required. To the extent a response is required, lululemon denies  
26 the allegations in paragraph 62 of Moret's Counterclaims.

63. lululemon denies the allegations in paragraph 63 of Moret's Third Counterclaim.

64. lululemon denies the allegations in paragraph 64 of Moret's Third Counterclaim.

65. Paragraph 65 of Moret's Counterclaims includes legal conclusions to which no response is required. To the extent a response is required, lululemon denies the allegations in paragraph 65 of Moret's Counterclaims.

**RESPONSE TO MORET'S PRAYER FOR RELIEF**

To the extent that a response to Moret's Prayer for Relief is required, lululemon denies that Moret is entitled to the relief it requests or any other relief.

**PRAYER FOR RELIEF**

WHEREFORE, lululemon respectfully request the following relief:

A. That the Counterclaims against lululemon be dismissed with prejudice and that all relief requested by Intervenor-Defendant/Counter-Claimant be denied.

B. Any such other and further relief as this Court may deem just and proper.

Dated: October 7, 2025

MORGAN, LEWIS & BOCKIUS LLP

By /s/ Ali S. Razai

Ali S. Razai  
Brandon G. Smith  
Brian O'Donnell  
Jack Hendershott

Attorneys for Plaintiff  
LULULEMON ATHLETICA  
CANADA, INC.

**CERTIFICATE OF SERVICE**

I am a citizen of the United States of America and I am employed in Orange County, California. I am over the age of eighteen years and not a party to the within action. My business address is 600 Anton Boulevard, Suite 1800, Costa Mesa, CA 92626-7653.

On October 7, 2025, I served the foregoing document on counsel shown below via ECF:

Thomas Vidal  
PRYOR CASHMAN LLP  
1901 Avenue of the Stars,  
Suite 900  
Los Angeles, CA 90067  
[tvidal@pryorcashman.com](mailto:tvidal@pryorcashman.com)

Brad D. Rose  
Matthew Barkan  
Jeffrey L. Snow  
Alexander White  
Kate E. Garber  
PRYOR CASHMAN LLP  
7 Times Square  
New York, NY 10036  
[mailto:brose@pryorcashman.com](mailto:mailto:brose@pryorcashman.com)  
[brose@pryorcashman.com](mailto:brose@pryorcashman.com)  
[mbarkan@pryorcashman.com](mailto:mbarkan@pryorcashman.com)  
[awhite@pryorcashman.com](mailto:awhite@pryorcashman.com)  
[kgarber@pryorcashman.com](mailto:kgarber@pryorcashman.com)

Attorneys for Intervenor-Defendant,  
JACQUES MORET INC

William A. Delgado  
Ellen Y. Yang  
Nicole G. Malick  
DTO Law  
915 Wilshire Boulevard, Suite 1950  
Los Angeles, CA 90017  
[wdelgado@dtolaw.com](mailto:wdelgado@dtolaw.com)  
[eyang@dtolaw.com](mailto:eyang@dtolaw.com)  
[nmalick@dtolaw.com](mailto:nmalick@dtolaw.com)

Sudip Kundu  
DTO Law  
307 5<sup>th</sup> Avenue, 12<sup>th</sup> Floor  
New York, NY 10016  
[skundu@dtolaw.com](mailto:skundu@dtolaw.com)

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 7, 2025, at Costa Mesa, California.

s/ Katie Thompson